BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.6690 of 2018
and
W.M.P.(MD)No.6465 of 2018

Tvl.Gomathy Stores,
Represented by its Proprietor,
R.Poolthevar ... Petitioner

-Vs-

1.The Additional Chief Secretary,
Commissioner of State Tax,
Ezhilagam, Chepauk,
Chennai-600 005.

2.The Deputy Commercial Tax Officer,
Commercial Taxes Building,
Shencottah. ...Respondents

PRAYER:Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for records pertaining to the impugned proceedings passed by the second respondent in TIN No.33405700610/2015-16, dated 14.06.2017 and quash the same as the same is illegal and passed by grossly violating the principles of natural justice and direct the respondent to furnish all the details of information obtained from the alleged electronically and mechanically generated through intranet departmental website report for the alleged mismatch purchases, monthly return copies of the other end dealers along with its annexures and thereafter, to decide the petitioner's case as per the guidelines and directions given by this Hon'ble Madras High Court in the mismatch batch of cases in W.P.No.105/2016 and others relating to M/s.JKM Graphics Solutions Private Limited & Others Vs. Commercial Tax Officer, Vepery Assessment Circle and others dated 01.03.2017 after providing an opportunity of personal hearing to the petitioner.

For Petitioner : Mr.K.Srinivasan

For Respondents : Mrs.S.Srimathy,
Special Government Pleader.

ORDER

Heard the learned counsel on either side.

2.By consent of both the parties, the main Writ Petition itself is taken up for final disposal at the stage of admission.

3.The petitioner is a Proprietary concern. It is registered with the second respondent. The subject matter of this Writ Petition relates to the year 2015-16. The second respondent has passed the deemed assessment order by accepting the petitioner's monthly returns as required under Section 22(2) of the Tamil Nadu Value Added Tax Act, 2006. However, on verification of the purchase details from the other end dealer, the second respondent came to the conclusion that the petitioner had willfully suppressed the purchases turnover. Hence, notices was issued on 28.03.2017, inviting the petitioner's objections. The petitioner did not file any objection and therefore, the impugned order dated 14.06.2017 was passed conforming the earlier deemed proposals. The said order is under challenge in this Writ Petition.

4.The learned counsel appearing for the petitioner submitted that the second respondent was obliged to furnish the mismatch details, on which reliance was placed. He drew the attention of this Court to the decision made in W.P.No.105 of 2016 dated 01.03.2017 (M/s.JKM Graphics Solutions Private Limited Vs. The Commercial Tax Officer, Vepery Assessment Circle, Chennai-6). It is obvious that the procedure out line in the said decision has not at all been adopted in this case. In this view of the matter, the order impugned in the Writ Petition stands quashed. However, since the petitioner has sought to bypass the appeal remedy, he has to be necessarily put on terms.

5.The learned counsel appearing for the petitioner, on instructions, would submit that the petitioner shall remit 10% of the disputed tax amount within a period of four weeks from the date of receipt of a copy of this order. This Court has recorded the undertaking given by the petitioner. If the petitioner would not abide by the aforesaid undertaking, the benefit conferred on the petitioner under this order, will not be available.

6.The Writ Petition is allowed on these terms. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To

1.The Additional Chief Secretary,
Commissioner of State Tax,
Ezhilagam, Chepauk,
Chennai-600 005.

2.The Deputy Commercial Tax Officer,
Commercial Taxes Building,
Shencottah.

+1CC to Special Government Pleader in SR.No.59237.

+1CC to Mr.K.Srinivasan Advocate in SR.No.58035.

TSG
DS/RP/SAR-1 :12.07.2018: 3P/5C

W.P.(MD)No.6690 of 2018
27.03.2018